

*Administration of Joseph R. Biden, Jr., 2021*

**Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies**

*January 26, 2021*

*Memorandum for the Secretary of Housing and Urban Development*

*Subject:* Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

*Section 1. Background and Policy.* Diverse and inclusive communities strengthen our democracy. But our Nation's history has been one of great struggle toward this ideal. During the 20th century, Federal, State, and local governments systematically implemented racially discriminatory housing policies that contributed to segregated neighborhoods and inhibited equal opportunity and the chance to build wealth for Black, Latino, Asian American and Pacific Islander, and Native American families, and other underserved communities. Ongoing legacies of residential segregation and discrimination remain ever-present in our society. These include a racial gap in homeownership; a persistent undervaluation of properties owned by families of color; a disproportionate burden of pollution and exposure to the impacts of climate change in communities of color; and systemic barriers to safe, accessible, and affordable housing for people of color, immigrants, individuals with disabilities, and lesbian, gay, bisexual, transgender, gender non-conforming, and queer (LGBTQ+) individuals.

Throughout much of the 20th century, the Federal Government systematically supported discrimination and exclusion in housing and mortgage lending. While many of the Federal Government's housing policies and programs expanded homeownership across the country, many knowingly excluded Black people and other persons of color, and promoted and reinforced housing segregation. Federal policies contributed to mortgage redlining and lending discrimination against persons of color.

The creation of the Interstate Highway System, funded and constructed by the Federal Government and State governments in the 20th century, disproportionately burdened many historically Black and low-income neighborhoods in many American cities. Many urban interstate highways were deliberately built to pass through Black neighborhoods, often requiring the destruction of housing and other local institutions. To this day, many Black neighborhoods are disconnected from access to high-quality housing, jobs, public transit, and other resources.

The Federal Government must recognize and acknowledge its role in systematically declining to invest in communities of color and preventing residents of those communities from accessing the same services and resources as their white counterparts. The effects of these policy decisions continue to be felt today, as racial inequality still permeates land-use patterns in most U.S. cities and virtually all aspects of housing markets.

The Congress enacted the Fair Housing Act more than 50 years ago to lift barriers that created separate and unequal neighborhoods on the basis of race, ethnicity, and national origin. Since then, however, access to housing and the creation of wealth through homeownership have remained persistently unequal in the United States. Many neighborhoods are as racially segregated today as they were in the middle of the 20th century. People of color are overrepresented among those experiencing homelessness. In addition, people of color disproportionately bear the burdens of exposure to air and water pollution, and growing risks of

housing instability from climate crises like extreme heat, flooding, and wildfires. And the racial wealth gap is wider than it was when the Fair Housing Act was enacted, driven in part by persistent disparities in access to homeownership. Although Federal fair housing laws were expanded to include protections for individuals with disabilities, a lack of access to affordable and integrated living options remains a significant problem.

The Federal Government has a critical role to play in overcoming and redressing this history of discrimination and in protecting against other forms of discrimination by applying and enforcing Federal civil rights and fair housing laws. It can help ensure that fair and equal access to housing opportunity exists for all throughout the United States. This goal is consistent with the Fair Housing Act, which imposes on Federal departments and agencies the duty to "administer their programs and activities relating to housing and urban development . . . in a manner affirmatively to further" fair housing (42 U.S.C. 3608(d)). This is not only a mandate to refrain from discrimination but a mandate to take actions that undo historic patterns of segregation and other types of discrimination and that afford access to long-denied opportunities.

Accordingly, it is the policy of my Administration that the Federal Government shall work with communities to end housing discrimination, to provide redress to those who have experienced housing discrimination, to eliminate racial bias and other forms of discrimination in all stages of home-buying and renting, to lift barriers that restrict housing and neighborhood choice, to promote diverse and inclusive communities, to ensure sufficient physically accessible housing, and to secure equal access to housing opportunity for all.

*Sec. 2. Examining Recent Regulatory Actions.* The Secretary of Housing and Urban Development (HUD) shall, as soon as practicable, take all steps necessary to examine the effects of the August 7, 2020, rule entitled "Preserving Community and Neighborhood Choice" (codified at parts 5, 91, 92, 570, 574, 576, and 903 of title 24, Code of Federal Regulations), including the effect that repealing the July 16, 2015, rule entitled "Affirmatively Furthering Fair Housing" has had on HUD's statutory duty to affirmatively further fair housing. The Secretary shall also, as soon as practicable, take all steps necessary to examine the effects of the September 24, 2020, rule entitled "HUD's Implementation of the Fair Housing Act's Disparate Impact Standard" (codified at part 100 of title 24, Code of Federal Regulations), including the effect that amending the February 15, 2013, rule entitled "Implementation of the Fair Housing Act's Discriminatory Effects Standard" has had on HUD's statutory duty to ensure compliance with the Fair Housing Act. Based on that examination, the Secretary shall take any necessary steps, as appropriate and consistent with applicable law, to implement the Fair Housing Act's requirements that HUD administer its programs in a manner that affirmatively furthers fair housing and HUD's overall duty to administer the Act (42 U.S.C. 3608(a)) including by preventing practices with an unjustified discriminatory effect.

*Sec. 3. General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) You are authorized and directed to publish this memorandum in the *Federal Register*.

JOSEPH R. BIDEN, JR.

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NOTE: This memorandum was published in the *Federal Register* on January 29.

*Categories:* Communications to Federal Agencies : Discriminatory housing practices and policies, efforts to redress Federal Government history, memorandum.

*Subjects:* Civil rights : Lesbian, gay, bisexual, and transgender persons, equality; Civil rights : Minorities :: Minority rights and ethnic tolerance; Civil rights : Racial equality; Government organization and employees : Federal programs, improvement efforts; Housing : Homelessness; Housing : Housing discrimination, prevention efforts.

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